

**WAUKESHA COUNTY  
MINUTES OF THE PARK AND PLANNING COMMISSION  
THURSDAY, APRIL 14, 2005, 1:00 P.M.**

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**CALL TO ORDER**

Walter Baade, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present:	Walter Baade	Mareth Kipp	Pat Haukohl
	Gary Goodchild	Walter Kolb	Ellen Gennrich
	Betty Willert		

Commission

Members Absent: None

Staff

Members Present: Richard L. Mace, Planning and Zoning Manager  
Kathy Brady, Secretary Supervisor

Guests Present: Dick Morris Brian Turk Sean Huff

**PUBLIC COMMENT**

Chairperson Baade asked if anyone from the audience wished to address the Commission? There being no one, he moved to the next item on the agenda.

- **SVZ-1554 (Welch Hanson and Associates) Village of Dousman, Section 4 (RRD-5 Rural Residential Density District 5 and A-E Exclusive Agricultural Conservancy Districts to the R-3 Residential and C-1 Conservancy Districts)**

Mr. Mace presented the "Addendum to the Staff Report and Recommendation" dated April 14, 2005, and made a part of these Minutes. He pointed out the location of the property, east of Gramling Lane immediately north of Scuppernong Creek and adjacent to the west shore of Utica Lake in the Village of Dousman on the aerial photograph.

Mr. Mace indicated the rezone was tabled at the January 13, 2005, meeting, and returned to the Village for further consideration and review relative to the Ottawa/Dousman Joint Committee and floodplain fill. The Commission felt the Joint Committee should be called together and the development reviewed in accordance with the mutually accepted agreement dated June 2004, and the issues related to this development, the floodplain fill and other aspects of the project be reviewed and the recommendations of that Committee be forwarded to the County for due consideration of the Shoreland Amendment. At the March 24, 2005, Park and Planning Commission meeting, it was decided that no action would be taken until the floodplain fill rezone amendment was dealt with, at which time, the Planning and Zoning Division Staff will merge both issues into a single recommendation

Mrs. Kipp said an ongoing concern of hers was that 80 single-family lots was too intensive of a development for that area. Mrs. Haukohl agreed, and said it is less than one acre per dwelling unit. Mr. Mace said the development will have sewer and water and the area of change is 29.7 acres with the entire parcel being approximately 55 acres in size. Mr. Kolb felt smaller than one-acre lots were appropriate because the development contains sewer and water. Mrs. Haukohl asked if the sewer extension amendment to this parcel would be taken up on today's agenda? Mr. Mace replied, "Yes". Mrs. Haukohl asked if sewer was the reason for less than one-acre lots? Mr. Goodchild replied, the Town of Ottawa has a Border Agreement with the Village of Dousman, and the Village has indicated they want four or five developments such as this to occur to help with their tax base. He asked if the

Commission could limit the amount of lots in a City or Village? Mr. Mace replied, “No” and noted the development meets the County’s standard for sewer and water and the Development Plan. Mrs. Kipp disagreed, and felt even though there would be sewer and water that the development was too intense. Mr. Kolb felt it was not the Commission’s business and does not have authority over the issue since it was the Village of Dousman. Mr. Mace said the County does have authority over the development because most of the area is located within the shoreland jurisdiction. As part of the project, the developer offered to dedicate 36.7 acres to the County, including frontage on Utica Lake and the Bark River. The lots are proposed to be 17,700 sq. ft. in size and the County’s Ordinance allows (for sewer and water) down to 14,000 sq. ft. Mrs. Willert felt that 17,700 sq. ft. was not too small for a Village lot.

Mrs. Haukohl expressed concerns regarding the high groundwater in the area. Mrs. Willert agreed, and asked about the basements? Mr. Mace said he spoke with the Village Engineer and Planner and they are aware of the groundwater conditions. The Village Ordinance requires that basements be one ft. above groundwater, and the County’s Ordinance requires basements only to be above groundwater but not at a specific height. If Condition No. 5 is followed, (requiring Grading Plans showing the final grades being submitted for the lots in the proposed project verifying that all of the lots have sufficient elevations above groundwater levels on the property and to assure that all homes will have their lowest floor above the groundwater levels) adverse groundwater effects should not be an issue. Mrs. Haukohl asked if a sentence could be added at the end of the first paragraph on Page 3 of the “Addendum to the Staff Report and Recommendation” stating the result of the discussion with the Village Engineer and Planner as mentioned above? Mr. Mace replied, “Yes”, and noted it would be added. Mrs. Gennrich asked if fill would be needed to get the homes above the groundwater? Mr. Mace replied that some filling would need to be done and in some places it could be three to four feet. Mrs. Gennrich asked if a house with a basement was allowed to be built on fill? Mr. Mace replied, “Yes”. Mr. Goodchild said over 60% of the homes in the subdivision to the south (next to the river) have walkout basements and have lot sizes, which are approximately ½ acre in size. Mr. Mace noted that no wetlands would be directly impacted by the development. Mr. Goodchild asked when pedestrian access would be determined to the bike trail for the residents of the development? Mr. Mace replied that the Parks System Staff has reviewed the issue and is satisfied, but he was unsure of the specifics. He noted that more than likely, the connection for the bike trail would be along Gramling Lane. Mrs. Gennrich said she was pleased the sewer line would not go under the lake as originally proposed due to the opposition of the neighboring property owners. Mrs. Haukohl mentioned that Gramling Lane was misspelled on the map attached to the “Addendum to the Staff Report and Recommendation”, to which Mr. Mace replied that it would be corrected.

*After discussion, Mr. Goodchild moved, seconded by Mr. Kolb and carried by a vote of 6 to 1 (Mrs. Kipp voted against), for approval, as conditioned, in accordance with the “Addendum to the Staff Report and Recommendation”. The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.*

**• SVZ-1554A (Welch Hanson and Associates) Village of Dousman, Section 4 (RRD-5 Rural Residential Density District 5 and A-E Exclusive Agricultural Conservancy Districts to the R-3 Residential and C-1 Conservancy Districts)**

Mr. Mace presented the “Staff Report and Recommendation” dated April 14, 2005, and made a part of these Minutes. He pointed out the location of the property, east of Gramling Lane immediately north of Scuppernong Creek and adjacent to the west shore of Utica Lake in the Village of Dousman on the aerial photograph.

Mr. Mace indicated that portions of the floodplain on the site would be filled to accommodate sufficient building area on three lots. The original rezoning application did not request the floodplain filling, therefore, the original public hearing did not reflect that change, so another hearing was scheduled to accommodate that change. Mr. Mace said on the south end of the parcel there will be development south of the tributary. In order to justify filling a portion of the C-1 lands to an upland category, the developer will also provide compensatory floodplain storage areas to mitigate any flood storage capacity lost to the fill project.

*After discussion, Mr. Kolb moved, seconded by Mr. Goodchild and carried by a vote of 6 to 1 (Mrs. Kipp voted against), for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.*

• **CZ-1519A (Brooks and Morris Farms) Town of Oconomowoc, Section 1**

Mr. Mace presented the “Staff Report and Recommendation” dated April 14, 2005, and made a part of these Minutes. He pointed out the location of the property located 600 ft. west of the 90-degree bend of Townline Road on the aerial photograph and indicated the petitioner is requesting to amend the conditions of rezoning.

Mr. Mace indicated in 2002, the Waukesha County Development Plan was amended to change the land use category on the property from the A-P Agricultural Land Preservation category to the SDRII category (35 acres to 5 acre density). The petitioner is requesting that three of the conditions in the previously approved Ordinance be removed (Condition No.’s 3, 4 and 5). Condition No. 5 of the original rezoning request (CZ-1519) required the developers to construct a public road from Townline Road to terminate in a cul-de-sac adjacent to the fourth lot. Due to the cost of constructing the cul-de-sac, the petitioner is requesting the removal of Condition No. 5 requiring the road and to allow four lots directly abutting Townline Road. It cannot be done on one Certified Survey Map (CSM) because there are five parcels, so there will be two CSM’s with two lots on one and three on the other. He further explained, there would be four building lots on 21 acres and the remainder lands would be a non-buildable at this time. Mrs. Kipp asked if the large lot would be Deed Restricted against further development? Mr. Mace replied, “No”, but the new Condition No. 3 states the remaining lands would not be developed unless there is an amendment to the Town’s Comprehensive Land Use Plan-2020 and the Waukesha County Development Plan. Mrs. Haukohl asked why verbiage in Condition No. 6 of the previously approved Ordinance was removed regarding a Deed Restriction prohibiting any further divisions? Mr. Mace said he was unsure. Mrs. Gennrich said it did not make sense to currently have five acre zoning and allow these lots, and later say the lots could be smaller. Mr. Mace explained there would be four lots and one outlot which is restricted so it cannot be built on. Mr. Goodchild said the outlot is not owned by the same owner of any of the four lots. Mrs. Willert said the CSM states that when services come through, the outlot could be developed. Mr. Goodchild asked what the neighbors with five and ten-acre lots thought? Mr. Baade replied that the neighbors had no objections.

Mr. Morris, petitioner, explained that the surrounding property has been divided over the years as follows: four, three acre lots, a seven acre lot, the 21 acre lot in the middle and two, nine acre lots to the west. In 1980, he purchased the 21-acre parcel, which had an intense development plan on it from a realtor in North Prairie. His original plan was for four to five acre lots and the Planning and Zoning Division Staff did not agree, so he revised the plan. It was approved last year by the Commission with the requirement of a road. The only difference is that there is no road and the 15 acres cannot be developed until the Land Use Plan is revised. Mr. Baade asked if the 15 acres would continue to be farmed? Mr. Morris replied “Yes”. Mrs. Willert asked what type of soils are on the property?

Mr. Mace replied, "Prime Ag". Mrs. Haukohl noted that another difference is that the Deed Restriction was removed. Mr. Mace said the Deed Restriction could be added as long as it has the same effect as Condition No. 3. Mrs. Kipp said she did not like multiple individual driveways along the road. Mr. Kolb noted the road is only a mile long and is not a heavily traveled road and felt it was safe and beneficial to do. Mr. Morris said the original requirement of the road (600') would cost him \$90,000. Mrs. Willert asked if the lots would be sold to family members? Mr. Morris replied, "No". Mr. Goodchild said that eventually the outlot would be sold and developed.

Mrs. Haukohl suggested the verbiage in the original rezone (CZ-1519, Condition No. 6) regarding a Deed Restriction prohibiting said division shall be recorded with the Register of Deeds Office prior to this amendment becoming effective should be added to the conditions of CZ-1519A. Mr. Mace said it would not be necessary because the CSM paperwork contains the same verbiage and is recorded with the Register of Deeds Office.

*After discussion, Mrs. Willert moved, seconded by Mr. Kolb and carried unanimously, for approval, as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.*

- **Amend the Regional Water Quality Management Plan for the Village of Mukwonago, Section 19**

Mr. Mace presented the "Amendment to the Regional Water Quality Management Plan for the Village of Mukwonago" dated March 2005, and made a part of these Minutes.

Mr. Mace indicated the amendment is to add a 4.6-acre parcel on the north side of Edgewood Avenue to accommodate a planned residential use. Mrs. Gennrich asked if the request was appropriate, to which Mr. Mace replied "Yes".

*After a brief discussion, Mrs. Haukohl moved, seconded by Mrs. Gennrich, and carried unanimously, for approval in accordance with the "Regional Water Quality Management Plan for the Village of Mukwonago".*

- **Amend the Regional Water Quality Management Plan for the City of Oconomowoc**

Mr. Mace presented the "Amendment to the Regional Water Quality Management Plan for the City of Oconomowoc" dated March 2005, and made a part of these Minutes.

Mr. Mace indicated the amendment is to attach the Rustic Inn Restaurant to the Oconomowoc and Environs Sanitary Sewer Service area, which is anticipated to be served by a holding tank. The restaurant has a contract with the City of Oconomowoc utility to take the sewage from the new expanded facility, which was a requirement of the Conditional Use, due to the fact that the restaurant's use is over 3,000 gallons in capacity.

*After a brief discussion, Mrs. Haukohl moved, seconded by Mrs. Gennrich, and carried unanimously, for approval in accordance with the "Regional Water Quality Management Plan for the City of Oconomowoc".*

• **Amend the Regional Water Quality Management Plan for the Village of Dousman, Section 4**

Mr. Mace presented the “Amendment to the Regional Water Quality Management Plan for the Village of Dousman” dated March 2005, and made a part of these Minutes.

Mr. Mace indicated the amendment is being proposed in conjunction with rezone SVZ-1554 discussed earlier in the meeting. Mrs. Haukohl asked Mr. Mace to point out on the map the route of the sewer? Mr. Mace replied, he was unsure where it would be located, but assumed it would come down Utica Road and go west along the bike trail. Mr. Goodchild said since the sewer lines will not go under the lake there are only two ways to serve the property. One would be to go north on Utica Road to S.T.H. 18 (west) and then south because the Developer owns the parcel to the north to S.T.H. 18. Mrs. Kipp asked if it would go under the river? Mr. Mace said, it could. Mr. Goodchild added the route he described above would not go under the river. There is a problem if it goes along Utica Road, north of Wilson Road, because it is a Town of Summit road and permission would be needed from the Town of Summit. If the sewer lines go south it may go under Scuppernong Creek. A 6” plastic sewer line would be used, and it would not be necessary to follow the elevations because it would be a force main and typically would be 6’ underground. Mrs. Gennrich asked if the people in the Town would have to pay to be hooked up? Mr. Goodchild replied “No”, not unless they wanted to be hooked up. He explained the way the Border Agreement works is if someone wanted to hook up they could, but their property would have to be in the Village, not the Town. Mrs. Willert noted, if the property to the north would be developed it would make sense to run the sewer to the north. Mrs. Gennrich asked if a route could be specified, to which Mr. Mace added that such activities were not the purview of the Staff or Commission. Mrs. Haukohl clarified the sewer connection ends at the end of Wilson Avenue and the Commission is being asked to extend the sewer to the property discussed earlier in the meeting and the sewer would not go under the lake. Mrs. Gennrich said it does not state the sewer would not go under the lake and asked if the rezone stated that the sewer couldn’t go under the lake? Mr. Mace replied “No”. Mrs. Gennrich and Mrs. Haukohl said they could not support the amendment because they did not want the sewer to go under Utica Lake. Mrs. Gennrich suggested reopening the rezone SVZ-1554 and add a condition stating the sewer extension could not go under the lake.

***Mr. Kolb moved for approval of the amendment, there was no second and the motion failed.***

There was discussion regarding reopening the rezone and adding a condition to the rezone SVZ-1554 stating the sewer could not go under Utica Lake. Mr. Mace thought it was appropriate because he did not think the Commission could add the condition to the Regional Water Quality Management Plan.

***Mrs. Gennrich moved, seconded by Mrs. Willert and carried by a vote of 6 to 1 (Mr. Kolb voted against) to temporarily table the “Regional Water Quality Management Plan for the Village of Dousman”.***

***Mrs. Gennrich moved, seconded by Mrs. Willert and carried by a vote of 6 to 1 (Mr. Kolb voted against) to reopen rezone SVZ-1554 (Welch Hanson and Associates).***

- **SVZ-1554 (Welch Hanson and Associates) Village of Dousman, Section 4 (RRD-5 Rural Residential Density District 5 and A-E Exclusive Agricultural Conservancy Districts to the R-3 Residential and C-1 Conservancy Districts)**

Mrs. Gennrich suggested adding a Condition No. 6, stating the sewer and water lines would not be placed under Utica Lake. Mrs. Kipp was unsure whether the Commission could require the location of the sewer line. Mr. Goodchild said the Commission was not saying where the sewer lines should be placed, rather where it could not be placed.

*After discussion, Mrs. Gennrich moved, seconded by Mrs. Haukohl and carried by a vote of 6 to 1 (Mrs. Kipp voted against), for approval, as conditioned, in accordance with the “Addendum to the Staff Report and Recommendation” with an added Condition No. 6:*

6. *The sewer and water lines shall not be permitted to be placed under Utica Lake.*

*The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.*

- **Amend the Regional Water Quality Management Plan for the Village of Dousman, Section 4**

*Mrs. Gennrich moved, seconded by Mrs. Willert and carried unanimously to reopen the Amendment to the Regional Water Quality Management Plan for the Village of Dousman.*

It was decided with the added condition to the rezone SVZ-1554 that the proposed amendment was acceptable.

*After discussion, Mr. Goodchild moved, seconded by Mrs. Willert, and carried unanimously, for approval in accordance with the “Regional Water Quality Management Plan for the Village of Dousman”.*

- **(Boulder Creek Builders, LLC) Town of Oconomowoc, Section 35**

Mr. Mace presented the “Staff Memorandum” dated April 14, 2005, and made a part of these Minutes. He pointed out the location of the property located at N49 W35387 Wisconsin Avenue in the Town of Oconomowoc on the aerial photograph and stated the petitioner is requesting retaining walls within 5’ of the east property line.

Mrs. Gennrich said the Zoning Permit required that a swale be constructed on the east side of the residence to ensure that adverse drainage would not affect the adjacent property. She asked why a retaining wall was built and not the required swale? Mr. Huff, from Boulder Creek Builders, replied that the faxed copy of the Zoning Permit contained the handwritten condition at the bottom, however, it was missed. He further explained, the yard grade was set off of the residence to the west. The petitioner’s lot was lower so the yard grade was higher than 897’. There is a stipulation, which said there could only be a certain amount of pitch into the swale. The residence was too close and high from the lot line to provide for a shallow enough pitch into the swale. He spoke with Ms. Barrows, Senior Land Use Specialist, and part of the plan was to construct the small retaining wall to get the correct pitch. There is a depression on the side of the wall to allow water to flow to the back of the lot. In addition, drainage tile and gravel was placed at the base of the wall for the gutters to flow into. Mrs. Haukohl asked if he

spoke with the Staff before changing the requirement from a swale to a retaining wall? Mr. Huff replied that he didn't notice on the Zoning Permit that it was supposed to be a swale and inadvertently the wall was constructed without a permit. He explained he had to obtain another permit for the retaining wall. Mr. Mace presented photographs of the retaining wall to the Commission. Mr. Huff indicated the wall was approximately 30' long and between 2 and 2½ ft. tall. Mr. Goodchild asked if the property was located on a lake? Mr. Huff answered, "No". Mr. Goodchild asked if the neighbor had any problems with the retaining wall? Mr. Huff said the neighbor indicated he liked the retaining wall.

*After discussion, Mrs. Kipp moved, seconded by Mrs. Haukohl and carried unanimously, for approval, as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.*

• **Review of Town of Vernon/Village of Big Bend Land Use Plan - Referred from April 5, 2005, Plan Amendment Meeting**

Mr. Mace presented the "Staff Memorandum" dated April 14, 2005, and made a part of these Minutes.

At the April 5, 2005, Joint meeting of the Waukesha County Park and Planning Commission and the Land Use, Parks and Environment Committee, a number of questions were raised regarding the Town of Vernon's proposed update to the Town's Plan and its relationship to the Waukesha County Development Plan. The Commission voted to approve the amendments as recommended by the Staff, subject to the Staff meeting with the Town of Vernon and Village of Big Bend Planners to resolve discrepancies and questions relative to the proposed Town of Vernon Plan and report back with the findings and comments.

On April 7, 2005, Ms. Moore, Senior Planner, met with both the Town of Vernon (Brian Turk) and Village of Big Bend (Brian Pionke) Planners to try to resolve some of the questions or discrepancies regarding the plan which was discussed and acted on at the April 5, 2005, meeting. The result of that meeting is as outlined below:

1. All of the area within the extraterritorial jurisdiction of the Village of Big Bend will be in the Village of Big Bend's Land Use Plan, which will be made a part of the Waukesha County Development Plan under State Statutes.
2. All of the area within the Land Use Plan of the Village of Mukwonago in Sections 19, 30 and 31 will be in the Village of Mukwonago's Plan, which will be made a part of the Waukesha County Development Plan under State Statutes.
3. For the remainder of the Town of Vernon, outside of the aforementioned extraterritorial planning areas, the Staff is recommending that the Waukesha County Park and Planning Commission and LUPE Committee approve the plan as presented with the following four exceptions:
  - A. All of the area known as the Morningstar Golf Course shall be included in the Recreational category.
  - B. The Isolated Natural Areas in Section 4, north and south of Skyline Road and west of Center Drive not be removed from the Waukesha County Development Plan.
  - C. The area south of C.T.H. "ES" and north of I-43 and west of Center Drive be designated in the SDRII category.

- D. The property located north of Maple Avenue, east of Center Drive, outside the extraterritorial jurisdiction of the Village of Big Bend not be changed to the Rural Density Residential category but remain in the Recreational category on the Bartholomew property as presently identified on the Waukesha County Development Plan.

Mr. Mace indicated the area within the jurisdiction of the Village of Big Bend and those issues have been removed from the attached map, at the present time, and it was his understanding that the Village is going to look over their plan and at what the Town desired and work out an agreement.

Mr. Turk said there are three outstanding issues between the Village and the Town:

1. The Ron Gasser property along National Avenue, in the NE ¼ of Section 1. The Village is looking at the entire strip of land between National Avenue and I-43 as a plan amendment not just the Gasser property.
2. The area in Section 36, at the northwest corner of River Road and S.T.H. 164 and the southeast corner of S.T.H. 164 and Kelsey Avenue. Between the two corners there is approximately 35 acres of land that the Town has approved at two-acre densities and the Village does not have a two-acre district (only one-acre or five-acre). The Village Planner has agreed to prepare a new classification for their plan that is within the one-acre to five-acre range, which would accommodate the request. This would also be applied in certain portions of Sections 1, 2 and 3 of their plans where the Town shows lower density than the five acres.
3. In the NW ¼ of Section 2, which is bounded by Skyline Avenue, Big Bend Drive, Townline Road and S.T.H. 164 (except the Governmental and Institutional and Isolated Natural Area) is shown on the Town of Vernon Plan as a business park designation. The County has conditionally approved a rezone for that property. The reason it is shown in the Rural Density Residential, Other Agricultural and Open Lands area is because the Village's Plan calls for the entire northern ½ mile of the Town to be in the five-acre residential category. The one to five acre category may be applied, but the Village is generally opposed to the business park designation.

The Planner's are going to take these issues back to their respective political bodies in order to resolve them. It should also be noted a number of the other changes which are being made on the Town of Vernon's Plan are generally housekeeping in nature where existing lots or ownerships are being expanded or re-designated to the appropriate land use category on the County's Plan where there was a discrepancy with the Town's adopted Plan.

***After discussion, Mrs. Gennrich moved, seconded by Mrs. Willert and carried unanimously, for approval, in accordance with the "Staff Memorandum".***



**ADJOURNMENT**

*With no further business to come before the Commission, Mrs. Willert moved, seconded by Mr. Kolb and carried unanimously to adjourn at 2:45 p.m.*

Respectfully submitted,

Ellen Gennrich  
Secretary

EG:kb